

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: William (Bill) Underwood, II, Budget & Finance Director
Document Prepared by: William F. Underwood, II

SUBJECT: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE RETIREMENT PLAN AND TRUST FOR THE MANAGEMENT AND GENERAL EMPLOYEES; AMENDING THE DEFINITION OF MANAGEMENT EMPLOYEE TO EXCLUDE DEPUTY AND ASSISTANT FIRE AND POLICE CHIEFS; PROVIDING FOR CONTINUATION OF EXISTING MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

SECOND READING: July 19, 2006

AFFECTED DISTRICT: N/A

REPORT IN BRIEF: The attached ordinance provides a technical amendment to the Defined Benefit Plan as follows: 1) removes from the definition of management employee deputy or assistant police or fire chiefs; 2) provides that any above member who was placed into the Plan shall have their rights preserved. The benefits under the Management and General Employee Plan will be offset against any benefits paid from a Davie public safety pension plan. If, however, a member fails to vest in a Davie public safety plan, full benefits shall be paid from the Management and General Employee Plan.

PREVIOUS ACTIONS: Town Council previously approved Ordinance 2004-2 establishing a retirement plan.

CONCURRENCES: The attached ordinance has been forwarded to the Town's attorney for review.

FISCAL IMPACT: not applicable

RECOMMENDATION(S): Motion to approve the ordinance

Attachment(s):

Ordinance

Town Attorney's Opinion

Letter from Robert Klausner

Fiscal Impact Statement

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE RETIREMENT PLAN AND TRUST FOR THE MANAGEMENT AND GENERAL EMPLOYEES; AMENDING THE DEFINITION OF MANAGEMENT EMPLOYEE TO EXCLUDE DEPUTY AND ASSISTANT FIRE AND POLICE CHIEFS; PROVIDING FOR CONTINUATION OF EXISTING MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town recently established the Retirement Plan and Trust for Management and General Employees;

WHEREAS, the Management and General Employee plan defines management employee as including deputy or assistant, police and fire chiefs;

WHEREAS, deputy or assistant, police and fire chiefs are required by state law to be members of the appropriate Chapter 175 and 185 police and firefighter pension plans; and

WHEREAS, placing deputy or assistant fire chiefs into the Town of Davie Firefighter Pension Plan will put the Town back into compliance with State law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, THAT:

Section 1: Section 1.18.1 of the Retirement Plan and Trust for the Management and General Employees of the Town of Davie is hereby amended to read as follows:

ARTICLE 1. Definitions.

1.18.1 "Management Employee":

shall mean town administrator, assistant or deputy town administrator, directors, the police and fire chief, ~~deputy or assistant police or fire chief~~, town clerk, deputy or assistance town clerk, redevelopment administrator and deputy or assistant directors.

Any deputy or assistant fire chief or police chief who was placed into the Retirement Plan and Trust for Management and General Employees (hereinafter "Continued Public Safety Officers") prior to December 31, 2005 shall have their rights preserved in the Management and General Employee Plan. Following the adoption of this ordinance, service credit for Continued Public Safety Officers shall be computed and provided to the Town of Davie Firefighter Pension Plan and Police Pension Plan, as appropriate. The Town of Davie Firefighter Pension Plan and Police Plan, as appropriate, shall award service credit to Continued Public Safety Officers based on all service earned under the Management and General Employee Plan as a public safety officer.

Although Continued Public Safety Officers shall be permitted to remain members of the Retirement Plan and Trust for Management and General Employees, benefits received from the Management and General Employees Plan shall be offset against benefits paid

under the Firefighter or Police Plan. If a Continued Public Safety Officer vests in the Retirement Plan and Trust for Management and General Employees but fails to vest in the Firefighter or Police Plan, the Continued Public Safety Officer shall receive full benefits from the Retirement Plan and Trust for Management and General Employees. Under no circumstances shall a Continued Public Safety Officer receive duplication of benefits.

Section 2: If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

Section 3: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: This Ordinance shall become effective as of _____, 2006.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2006

PASSED ON SECOND READING THIS ____ DAY OF _____, 2006

MAYOR

Attest:

Town Clerk

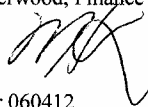
APPROVED THIS ____ DAY OF _____ 2006

Coding: Words in stricken type are deletions from existing text.
Words in underline type are additions.

MONROE D. KIAR
TOWN ATTORNEY
TOWN OF DAVIE
6191 SW 45th Street, Suite 6151A
Davie, Florida 33314
(954) 584-9770

MEMORANDUM

RCVD MAY 11 '06

DATE: May 11, 2006
TO: Ken Cohen, Acting Town Administrator
CC: William F. Underwood, Finance Director
FROM: Monroe D. Kiar 
RE: Control Number 060412
Benefit Restoration Plan -Managerial and General Employees Pension Plan

Attached please find a copy of a letter from Attorney Robert D. Klausner along with a proposed Ordinance prepared by Mr. Klausner which he has requested to be placed on the Town Council Agenda. I have spoken with Mr. Klausner's associate, Adam Levinson, who indicated that the purpose of this Agenda item is to amend the Managerial and General Employees Plan to rectify certain outstanding concerns under Chapter 175 and 185 of the Florida Statutes which he indicated he had previously discussed with Mr. Underwood. It should be noted that Section 175.032 (8) (a) defines "firefighter" to mean "Any person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with the provisions of Section 633.35 and whose duty it is to extinguish fires, to protect life, or to protect property...". The subsection also states "Any plan may provide that the fire chief shall have an option to participate, or not, in that plan." Subsection 185.02 (11) of the Florida Statutes defines "police officer" to mean "Any person who is elected, appointed or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with Section 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the State. This definition includes all certified supervisory and command personnel whose duties include, and in whole or in part, the supervision, training, guidance, and management responsibilities of full time law enforcement officers, part-time law enforcement officers, or axillary law enforcement officers, but does not include law enforcement officers or axillary law enforcement officers as the same are defined in Section 943.10 (6) and (8),

respectively...". It also provides "Any plan may provide that the police chief shall have an option to participate, or not, in that plan."

Should you have any questions regarding this issue or if there is any legal action you wish this office to take in this matter, please advise us.

MDK/gmv
enclosure



Writer's e-mail: bob@robertdklausner.com

May 5, 2006

Monroe D. Kiar, Esquire
Town Attorney
6191 S.W. 45th Street
Suite 6151-A
Davie, Florida 33314

Re: Town of Davie Managerial and General Employees Retirement Plan -
Professional Services Agreement
Our File No. 06-0008

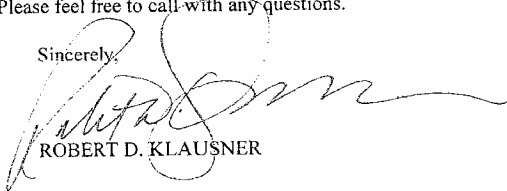
Dear Mr. Kiar:

Enclosed for placement on the next available Town Council agenda is an ordinance amending the Managerial and General Employees Plan to rectify outstanding concerns under Chapters 175 and 185, Florida Statutes.

The purpose of the ordinance is to clarify that all firefighters and police officers, with the exception of the Fire Chief and Police Chief, are required to be members of their respective firefighter and police plans. Command staff who were previously placed into the Managerial and General Employee Plan shall be permitted to remain as grandfathered members, but benefits shall be offset by any benefits payable from a Town of Davie public safety plan.

Thank you for your attention to this matter. Please feel free to call with any questions.

Sincerely,



ROBERT D. KLAUSNER

RDK:ldm
cc: William F. Underwood, II, Finance Director
Paul Shamoun, Florida Municipal Pension Trust Fund
Enclosure

\\pl060008\Kiar ltr re Management & GE pension ordinance

10059 NORTHWEST 1ST COURT, PLANTATION, FLORIDA 33324

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Atlanta, Georgia 30356-0343
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WWW.SOUTHERNACTUARIAL.COM

June 12, 2006

Trustees of the Retirement Plan for the Employees of the Town of Davie
c/o Mr. Paul Shamoun
Retirement Programs Manager
Florida League of Cities, Inc.
P. O. Box 1757
Tallahassee, FL 32302

Re: Retirement Plan for the Employees of the Town of Davie

Ladies and Gentlemen:

In response to your request, I have reviewed the unnumbered ordinance of the Town of Davie, Florida which (i) amends the definition of "management employee" to exclude deputy or assistant police or fire chiefs but (ii) also provides that any deputy or assistant fire chief or police chief who was placed in the subject plan prior to December 31, 2005 shall have their rights in the plan preserved.

I have determined that the change made by this ordinance will have no actuarial impact on the subject plan.

If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in blue ink that reads "Charles T. Carr".

Charles T. Carr
Consulting Actuary



"Adam Levinson"
<adam@robertdklausner.com>

07/13/2006 11:12 AM

To: <ken_cohen@davie-fl.gov>, <wunderwood@davie-fl.gov>, <mark_alan@davie-fl.gov>, "Robert Klausner" <bob@robertdklausner.com>, "Stuart Kaufman"
cc
bcc
Subject: FW: Davie GE & Mgmt Plan - confirmation of police and fire membership

From: Paul Shamoun [mailto:PTShamoun@flcities.com]
Sent: Thursday, July 13, 2006 11:03 AM
To: Adam Levinson
Subject: RE: Davie GE & Mgmt Plan - confirmation of police and fire membership

Adam,

I have reviewed the list of employees in this e-mail and the only person on the list that is enrolled in the plan is Mr. Eggnatz.

Paul Shamoun
Retirement Services Manager
Florida League of Cities, Inc.
800-616-1513 ex 278
ptshamoun@flcities.com

From: Adam Levinson [mailto:adam@robertdklausner.com]
Sent: Thursday, July 13, 2006 10:42 AM
To: Paul Shamoun
Cc: ken_cohen@davie-fl.gov; wunderwood@davie-fl.gov; mark_alan@davie-fl.gov; Robert Klausner; Stuart Kaufman
Subject: RE: Davie GE & Mgmt Plan - confirmation of police and fire membership

Paul,

In response to our inquiry with the Town of Davie seeking the names and titles of all deputy and assistant police and/or fire chiefs, we have received the following information which is also set forth in the attached PDF file:

Julie Downey, Assistant Fire Chief
Joseph Montopoli, Assistant Fire Chief
Frank Suriano, Assistant Fire Chief
Steven Eggnatz, Deputy Fire Chief.

Please confirm the membership status of each of the above listed individuals. We expect that only Deputy Chief Steven Eggnatz would be listed in your files as a member of the Davie GE and Management Plan. We have been advised that there are no assistant or deputy police chiefs employed by the Town of Davie. Thanks for your prompt attention to this matter.

Adam Levinson
Klausner & Kaufman, P.A.
10059 N.W. 1st Court
Plantation, FL 33324